

REMARKS

Upon entry of the above amendments, this Application will contain claims 41-48 and 56-60 pending and under consideration. In this Response claims 29, 35-40, and 49-55 have been canceled. (Claims 1-28 and 30-34 were previously canceled.) New claims 56-60 have been added. In the latest Office Action, dated August 29, 2003, claims 29, 35-43, 46-48 and 50-55 were rejected under 35 USC §103(a) over Good et al. (US 6,194,224) in view of Dreyfus (US 2,063,987). However, claims 44, 45, and 49 were considered to be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims. For the reasons more fully disclosed below, it is believed that the claims are patently distinct from these references. Reconsideration leading to timely allowance of this application is respectfully requested.

Rejections Under 35 USC §103(a)

Claims 29, 35-43, 46-48, and 50-55 were rejected under 35 USC §103(a) over Good et al. (US 6,194,224) in view of Dreyfus (US 2,063,987). In this Response, claim 41 has been amended to include the subject matter from claim 55, i.e., that the “overlay material is provided with liquid conducting capacity selected to obviate excess sample from the detection layer”. It is believed that this amendment should be entered. Claim 55 depended from claim 41 and was already pending in the application. Claim 41 as amended does not introduce any new matter; it does not present new issues that require additional searching; and it places the application--or at the very least--claims 41-48 in condition for allowance.

Good et al. does not disclose or make obvious a test strip that includes overlay material made of a spreading material comprising a porous flat structure impregnated with a wetting agent, wherein the wetting agent is N-oleoyl-sarcosinate and wherein the overlay material is provided with liquid conducting capacity selected to obviate excess sample from the detection layer as claimed.

The test strip of Good et al. includes a “liquid sink zone 25 (or waste pad) made of a fibrous material ... to absorb excess liquid in the sample.” (Good et al., col. 4, lines 31-33.) The liquid sink zone 25 of Good et al is not the same as the either overlay material or the spreading material recited in claim 41. The liquid sink zone 25 is separate from the sample receiving zone 21 that includes the sarcosinate, and zone 25 is located on the test strip “down stream” of the test zone 23. (Good et al, col. 4, lines 8-16 and Fig. 1.) The test zone 23 of Good et al corresponds to the detection zone of the

present invention. Consequently in the test strip disclosed in Good et al., excess test sample must pass through the test zone and then is absorbed in the liquid sink zone 25.

In contrast, the present invention provides an overlay material that includes the spreading material with the sarcosinate and that does not permit any excess sample to reach the detection zone. As noted above this is not disclosed or made obvious by Good et al.

Dreyfus does not make up for the deficiencies of Good et al. Dreyfus merely discloses that various sarcosinates are of value for aqueous treatments including wetting. Dreyfus does not disclose or teach any thing about test strips as presently claimed.

The Applicant submits that the combined references Good et al. and Dreyfus do not make the invention claimed in independent claim 41 obvious. Therefore, withdrawal of the rejections over claims 41-48 is respectfully requested.

New claim 56 has been added. Claim 56 includes the subject matter of previously presented claims 41 and 49, which depended from claim 41. In the latest Office Action, objections were raised to claim 49 for being dependent upon a rejected base claim, but was otherwise considered to be allowable. It is believed that new claim 56 does not add any new matter or requires any additional searching by the Examiner since claim 56 merely combines previously examined claims 41 and 49. It is respectfully requested that claim 56 be allowed.

New claims 57-60 have also been added. Independent claim 57 includes the subject matter found in claims 41 and claim 42. Consequently, since both claims 41 and 42 were pending in the application, it is believed that new claim 57 and the dependent claims 58-60 should be entered.

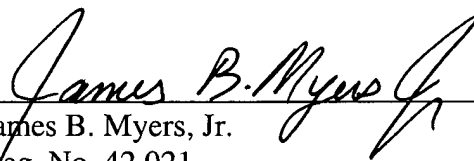
Good et al. does not disclose or make obvious a test strip that includes an "overlay material [that] can be displaced freely relative to the strip surface", as claimed in claim 57. In the test strip of Good et al., the sample receiving zone 21, the reagent zone 22, the test zone 23, the control zone 24, and the liquid sink zone 25 are all encased within the upper and lower layers 31 and 32 of the plastic sheath 30. (Good et al. col. 4 lines 8-53; col. 5, lines 28-37 and Figs. 1-3.) Since each of these zones or layers are encased within the sheath 30, which is then sealed about its edge, these zones or layers cannot be displaced freely from the strip surface as recited in claim 57. Consequently, it is believed that Good et al. does not disclose or make obvious the test strip as recited in claim 57.

Dreyfus as been discussed above and does not make up for the deficiencies of Good et al. Consequently, it is believed that independent claim 57 and claims 58-60 depending therefrom are patentably distinct from Good et al. and Dreyfus.

Conclusion

In view of the foregoing, the Applicant respectfully submits that the cited references, considered either singly or in combination, do not disclose or make obvious the claimed invention. Accordingly, reconsideration leading to withdrawal of all outstanding rejections under 35 USC § 103(a) and passage of this application containing claims 41-48 and 56-60 are requested. Additionally, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other matters that can be addressed in that fashion.

Respectfully submitted,

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